

PLANNING COMMISSION AGENDA REPORT

MEETING DATE: NOVEMBER 8, 2004

TIII. 3.

SUBJECT: CONDITIONAL USE PERMIT PA-04-33

1764 ANAHEIM AVENUE AND 1777 NEWPORT BOULEVARD

DATE:

OCTOBER 29, 2004

FOR FURTHER INFORMATION CONTACT: MEL LEE, ASSOCIATE PLANNER

(714) 754-5611

PROJECT DESCRIPTION

The applicant is requesting a conditional use permit to allow off-site valet parking at 1764 Anaheim Avenue, in an R2-HD zone, for a proposed restaurant/nightclub at 1777 Newport Boulevard, in a C2 zone, and to serve alcoholic beverages for on-site consumption after 11:00 p.m. (2:00 a.m. seven days a week proposed) with live entertainment and dancing within 200 feet of a residential zone.

APPLICANT

The applicant is John DeFrenza, representing the property owner, Dennis D'Alessio.

RECOMMENDATION

Deny by adoption of Planning Commission resolution.

MEL LEE

Associate Planner

R. MICHAEL ROBINSON

Planning & Redevelopment Manager

PLANNING APPLICATION SUMMARY

Location:	1764 Anaheim Ave 1777 Newport B		oplication: ——	PA-04-33
Request:	Conditional use permit to allow off-site valet parking at 1764 Anaheim Avenue, in an R2-HD zone, for a proposed restaurant/nightclub at 1777 Newport Boulevard, in a C2 zone, and to serve alcoholic beverages for on-site consumption after 11:00 p.m. (2:00 a.m. seven days a week proposed) with live entertainment and dancing within 200 feet of a residential zone.			
		1764 ANAH	<u>IEIM AVENUE</u>	
SUBJECT PROPERTY:		SURRO	UNDING PROPERT	<u>'Y:</u>
Zone: R2-F General Plan: Lot Dimension Lot Area: Existing Devel	High Density Resident s: Irregular 11,325 SQ, FT.	East: West:		forming Commercial Use 2, Commercial Uses ices
		1777 NEWPO	RT BOULEVARD	
SUBJECT PRO	PERTY:	SURRO	OUNDING PROPERT	<u>ΓΥ:</u>
Zone: C2		North:	C2, Commercia	
General Plan:	General Commercial	South:	C2, Commercial uses	
Lot Dimension		East:	Frontage Road and Newport Boulevard	
Lot Area:	5,250 SQ . FT.	West:	(Across Alley) F Parking Lot	R2-HD & R1, Residences and Public
Existing Devel	opment: 2-story comr	nercial building		
DEVELOPMI	ENT STANDARD COI		d/Allowed	Proposed/Provided
Parking*:				
TOTAL:		16	169 Spaces 172 Spaces	
			-	
	ort discussion.			
CEQA Status				· · ·
Final Action:	Planning Commission			

Revised 7/96-PLANNING ACTION SUMMARY-COML

BACKGROUND

The site is an existing 2-story commercial building constructed in 1963. The property is located within the City's Downtown Redevelopment Project Area. The building is currently occupied by a retail rug store.

On October 13, 2003, Planning Commission approved PA-03-27, a variance from front building setback (20 feet required; 0 feet proposed) for a 150 square foot second floor balcony/deck, part of an exterior remodel for the building. The applicant requested a one-year time extension of this approval, which is also scheduled for this agenda.

ANALYSIS

Restaurant/Nightclub

The applicant is requesting approval of a conditional use permit to establish a restaurant/nightclub on the second floor of the building. The second floor is 4,245 square feet in area. A specific tenant has not yet been identified, however, the applicant has stated that the proposed use would be a combination restaurant/nightclub with live entertainment and dancing, and would be open until 2:00 a.m., seven days a week. The proposed restaurant/nightclub is within 200 feet of several two-story multiple family residential structures to the rear of the building, across from the public alley. The building is approximately 80 feet from the nearest residential structure.

Although a specific restaurant/nightclub has not been identified, staff has several concerns with the applicant's request. Unlike the other restaurants that are open past 11:00 p.m. within the 1700 block of Newport Boulevard (Cafe Ruba and Bamboo Terrace), the proposed restaurant/nightclub will be located on the second floor of the building (the other establishments are in 1-story buildings). As indicated earlier, there are several two-story residential structures in proximity to the subject building, which means that impacts from music and/or patrons (i.e., noise, trash loitering, and security problems) would be disruptive to the nearby residents. Noise impacts to residents could be further exacerbated by the second floor windows that face towards the residential properties. Staff's opinion is based on the City's experience with similar establishments in proximity to residential uses, demonstrated in the Commissions' recent denial of proposed restaurant/bar/nightclub at 2831 Bristol Street (Hamburger Mary's). A summary of the other eating and drinking establishments within the same block of the subject property are summarized in the following table. Note the establishments in the table below have conditional use permits with restrictions on hours of operation, low-key entertainment, etc. to limit their impact on surrounding properties, unlike the proposed use.

Restaurant	CUP	Restrictions/Limitations
Café Ruba	PA-91-20	No outdoor entertainment.
	(For live entertainment,	No entertainment after 10:00 p.m.
	outdoor seating, offset	
	hours of operation, and	
	off-site parking)	
Golden Truffle*	ZE-84-52	Valet parking required to be available during
	(For outdoor seating and	lunch and dinner; limited seating during
	interior expansion, with	lunch hours.
	parking deviation)	
Bamboo Terrace	PA-99-31	Live entertainment required to be low key
	(For live entertainment)	and ancillary to restaurant use; no dancing
	PA-03-57	allowed after 9p.m.
	(For outdoor seating,	
	dancing, and expanded	
	hours of operation)	
Side Street Café*	PA-91-71	No special restrictions or limitations.
	(For parking deviation)	

^{*}Does not operate past 11:00 p.m. Current operating hours for all businesses within this block are summarized in the table on pages 5 and 6 of this report.

Additionally, as noted by the Police Department in the attached memo, the proposed use could create an increase in calls for Police service for noise, loitering, and security problems for the surrounding area; as a result, the Police Department does not support the request. If the application were to be approved, staff has incorporated conditions of approval to minimize adverse impacts on the nearby residents.

Off-Site Valet Parking

The majority of the parking spaces provided for the subject property, as well as the other businesses on the 1700 block of Newport Boulevard, are provided in the parking area at the front of the buildings (adjacent to Newport Boulevard). Parking is also provided directly at the rear of some (but not all) of the commercial buildings. There are no on-site parking spaces provided for the subject property. There is also restricted parking available within the public parking lot on West 18th Street (next to the Veteran's Memorial Hall). The owner of the subject building also owns a 11,325 square foot parking lot approximately 250 feet to the south of the subject building (at the rear of Café Ruba) addressed as 1764 Anaheim Avenue. The lot, which is zoned R2-HD, has been used in the past as a parking lot and is legal nonconforming. The lot is proposed to be used for valet parking for the restaurant/nightclub, and will be restriped to accommodate 29 parking spaces and site landscaping. A summary of the available parking for the 1700 block of Newport Boulevard is provided in the following table:

# Spaces Provided In Parking Area Fronting Newport Blvd.	67 Spaces
# Spaces Provided In W. 18th Street Parking Lot	55 Spaces
# Spaces Provided Behind Existing Food/Beverage	21 Spaces
Establishments (Bamboo Terrace, Café Ruba, And Golden Truffle	
# Spaces Proposed for Parking at 1764 Anaheim Avenue	29 Spaces

Total Provided	172 Spaces
Total Required (Including Proposed Use)*	169 Spaces*

^{*}Based on shared parking analysis, which assumes all uses operate at same time.

Although, based on the above numbers, there would appear to be adequate parking for the proposed use if all uses were to operate at the same time (i.e., during lunchtime on weekdays), staff notes several concerns with the parking related to the proposed use. Under current code, 17 parking spaces are required for the second story space as a retail or office use (4 spaces/1,000 sq. ft. of parking area); as a restaurant/nightclub, the parking requirement increases to 55 spaces (10 spaces/1,000 sq. ft. for the first 3,000 sq. ft. of floor area, plus 20 spaces/1,000 sq. ft. for the remaining floor area). As indicated earlier, there are no on-site parking spaces for the subject property, and the proposed off-site parking area can accommodate 29 non-tandem parking spaces, which is not sufficient for the proposed use. Whereas the parking for a retail or office use at the subject property can easily be accommodated within the surrounding parking areas, this would not be the case for the proposed restaurant/nightclub use.

Additionally, it should be pointed out that the Veteran's Hall parking lot has restrictions for parking during weekdays and after midnight that may prohibit its use as parking for the patrons of the restaurant/nightclub. Finally, as pointed out by the Police Department in the attached memo, the isolated location of the off-site parking area (relative to the location of the proposed use) could lead to the parking area not being used by patrons for valet parking and, even if the off-site parking lot were used for valet parking as intended, the noise of the vehicles traveling through the alley to enter and leave the parking lot could be disruptive to residents in the late evening/early morning hours.

The current operating hours for all businesses within this block are summarized in the following table:

Business Name	Address	Type of Business	Hours of Operation
Aamco	1745 Newport	Auto Repair	8a.m5p.m., M-F; Sat & Sun Closed
Café Ruba*	1749 Newport	Restaurant	7a.m2a.m. M-Sun 8a.m2a.m. Sat
Black Flys	1759 Newport	Retail Store	10a.m7p.m. M-Sat 11a.m6p.m. Sun
Tiffany Lamps	1765 Newport	Retail Store	11a.m 6p.m. M, F, Sat, Sun Closed T, W, Th
Golden Truffle	1767 Newport	Restaurant	11a.m2:30p.m., and 5p.m 10:30p.m. Tu-Fri 5:30p.m10:30p.m. Sat Closed Sun & Mon
Bamboo Terrace*	1773 Newport	Restaurant	11:30 a.m1a.m., Sun-Th 11:30 a.m2a.m., Fri&Sat

Winston Jewelers	1775 Newport	Retail Store	10a.m6p.m. M-F
		•	10a.m4p.m. Sat
Newport Kids	1775 Newport	Retail Store	10a.m6p.m. M-F
	·		10a.m5:30p.m. Sat
N/A	1777 Newport	Restaurant/	Open until 2a.m., 7 days a week
	(Subject Property)	Nightclub	
Second Spin	1781 Newport	Retail Store	10a.m10p.m. Sun-Th
			10a.m11p.m. Fri-Sat
Subject Matter	1781 Newport	Store/Gallery	Noon-8p.m. M-Sun
Mainly Seconds	1785 Newport	Retail Store	10a.m7p.m. M-F
			9a.m7p.m. Sat
			10a.m6p.m. Şun
Condom	1799 Newport	Retail Store	10a.m10p.m. M-Sat
Revolution			11a.m7p.m. Sun
Sunglass Plus	1799 Newport	Retail Store	9a.m7p.m. M-F
			10a.m6p.m. Sat
Side Street Cafe	1799 Newport	Coffee Shop	7:30a.m3:30p.m. 7 days a week
Brat	1799 Newport	Retail Store	10a.m6p.m. M-Sat
			Closed Sun
Cleaners	1799 Newport	Retail Store	10a.m6p.m. M-Sat
			Closed Sun
Camera Store	545 W. 18 th	Retail Store	10a.m6p.m. M-Sat
_			Closed Sun
Barber Shop	545 W. 18 th	Retail Store	9a.m7p.m. M-Sat
	<u> </u>		Closed Sun

^{*}Open past 11:00 p.m.

ALTERNATIVES

The Commission has the following alternatives:

- Deny the applicant's request for the proposed restaurant/nightclub and off-site valet parking due to potential adverse impacts of the second story location of the proposed use to several two-story residential structures in the area. The applicant could still remodel the exterior of the building per the previous approval of PA-03-27.
- 2. Approve the applicant's requests, subject to the recommended conditions of approval, which are designed to help minimize impacts to surrounding uses.

CONCLUSION

Approval of the requested proposed restaurant/nightclub and off-site valet parking could create adverse impacts on the nearby residents, therefore, staff does not support the requests.

Attachments:

Applicant's Project Description and Justification

Draft Planning Commission Resolution

Exhibit "A" - Findings

Exhibit "B" - Conditions of Approval (If Request is Approved)

Police Department Memo

Location Map Plans/Photos

cc: Deputy City Manager-Dev. Svs. Director Sr. Deputy City Attorney City Engineer Fire Protection Analyst Staff (4) File (2)

> John DeFrenza 20301 S.W. Birch Street, Suite 101E Newport Beach, CA 92660

D'Alessio Investments 440 Fair Drive, Suite H Costa Mesa, CA 92626

File: 110804PA0433	Date: 102704	Time: 1030a.m.

RESOLUTION NO. PC-04-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA DENYING CONDITIONAL USE PERMIT PA-04-33

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by John DeFrenza, authorized agent for Dennis D'Alessio, owner of real property located at 1764 Anaheim Avenue and 1777 Newport Boulevard, requesting approval of a conditional use permit to allow off-site valet parking at 1764 Anaheim Avenue, in an R2-HD zone, for a proposed restaurant/nightclub at 1777 Newport Boulevard, in a C2 zone, and to serve alcoholic beverages for on-site consumption after 11:00 p.m. (2:00 a.m. seven days a week proposed) with live entertainment and dancing within 200 feet of a residential zone; and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on November 8, 2004.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", the Planning Commission hereby **DENIES** Conditional Use Permit PA-04-33 with respect to the property described above.

PASSED AND ADOPTED this 8th day of November, 2004.

Chair, Costa Mesa Planning Commission

STATE OF CALIFORNIA	}
)ss
COUNTY OF ORANGE)

I, R. Michael Robinson, Secretary to the Planning Commission of the City of Costa Mesa, do hereby certify that the foregoing Resolution was passed and adopted at a meeting of the City of Costa Mesa Planning Commission held on November 8, 2004, by the following votes:

AYES:

COMMISSIONERS

NOES:

COMMISSIONERS

ABSENT:

COMMISSIONERS

ABSTAIN: COMMISSIONERS

Secretary, Costa Mesa Planning Commission

EXHIBIT "A"

FINDINGS

- A. The proposed use does not comply with Costa Mesa Municipal Code Section 13-29(e) because:
 - The proposed use is not compatible and harmonious with the residential uses in the surrounding area.
- В. The information presented does not comply with Costa Mesa Municipal Code Section 13-29(g)(2) in that the proposed use is not compatible with developments in the same general area. Granting the conditional use permit will be detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate vicinity. Specifically, the proposed use is a combination restaurant/nightclub, with off-site valet parking. The restaurant/nightclub is proposed for the second floor of an existing 2-story commercial building, and is approximately 80 feet away from existing two-story residential structures. The second floor has several windows that face towards the residential properties. The proposed restaurant/nightclub would not be compatible with the nearby residents, based upon the second story location of the proposed use and the City's experience with similar establishments in close proximity to residential uses. Additionally, the proposed use could create an increase in calls for Police service for noise, loitering, and security problems.
- C. The request for off-site valet parking does not comply with Costa Mesa Municipal Code Section 13-29(g)(2) in that the request will be detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate vicinity. Specifically, there are no on-site parking spaces for the subject property, and the proposed off-site parking area can accommodate 29 non-tandem parking spaces, which is not sufficient for the proposed use. Whereas the parking for a retail or office use at the subject property can easily be accommodated within the surrounding areas, this would not be the case for the proposed restaurant/nightclub use. Additionally, the off-site valet parking would not be compatible with nearby residents based on its proximity and hours of operation.
- D. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA.
- E. The project is exempt from Chapter IX, Article 11, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

EXHIBIT "B"

CONDITIONS OF APPROVAL (If Request Is Approved)

Ping.

- 1. The conditional use permit herein approved shall be valid until revoked, but shall expire upon discontinuance of the activity authorized hereby for a period of 180 days or more. The conditional use permit may be referred to the Planning Commission for modification or revocation at any time if the conditions of approval have not been complied with, if the use is being operated in violation of applicable laws or ordinances, or if, in the opinion of the development services director or his designee, any of the findings upon which the approval was based are no longer applicable.
- 2. The use shall be limited to the type of operation described in the staff report. Any change in the operational characteristics including, but not limited to, hours of operation, sale of alcoholic beverages or provision of live entertainment and/or dancing, will require approval of an amendment to the conditional use permit, subject to Planning Commission approval.
- The application will be reviewed annually by Planning Staff. Any problems or violations of the conditions of approval may require the application to be referred to the Planning Commission for modification or revocation.
- 4. A copy of the conditions of approval shall be kept on premises and presented to any authorized city official upon request. Applicant shall notify new business/property owners of conditions of approval upon transfer of business or ownership of land.
- 5. Construction, materials delivery, equipment operation or other noise-generating activity shall be limited to between the hours of 7 a.m. and 8 p.m., Monday through Friday, and between the hours of 8 a.m. and 7 p.m., on Saturday, Sunday, and Federal holidays. Exceptions may be made for activities that will not generate noise audible from off-site, such as painting and other quiet interior work.
- The licensee shall not employ or use the services of any full-or part-time active or reserve peace officer currently employed by the City of Costa Mesa or any contiguous agency for security purposes.
- 7. Live entertainment, amplified music and/or dancing may only be permitted subject to City issuance of a public entertainment permit. Contact Code Enforcement at (714) 754-5623 for application information.

- 8. The maximum occupancy, as determined by provisions of the Uniform Building Code or other applicable codes, shall be posted in public view within the premises, and it shall be the responsibility of management to ensure that this limit is not exceeded at any time. Occupant loads for the open patio area and the enclosed building area shall be calculated and posted separately.
- 9. There shall be no room or designated area reserved for the exclusive use of designated persons or "private club members."
- 10. The business shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The applicant and/or business owner shall institute whatever security and operational measures are necessary to comply with this requirement.
- 11. There shall be no sales of alcoholic beverages for off-site consumption.
- 12. At all times the premises is open for business, the sale and service of alcoholic beverages shall be made only in conjunction with the sale and service of food.
- 13. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food and meals during the same time period. The applicant shall at all times maintain records, which reflect separately the gross sales of food and gross sales of alcoholic beverages of the business. The records shall be kept no less frequently than on a quarterly basis and shall be made available to the Development Services Director or his designee on demand.
- 14. The restaurant shall remain a "bona fide public eating place" as defined by Section 23038 of the California Business and Professions Code.
- 15. The parking lot shall be posted with signs directing employees to use consideration when entering their cars and leaving the parking lot.
- 16. Applicant shall secure the premises with appropriate security lighting and employee scrutiny of adjacent areas over which applicant has control, to prevent trash, graffiti, and loitering. Applicant shall further provide adequate lighting above the entrances to the premises sufficient in intensity to make visible the identity and actions of all persons entering and leaving the premises.
- 17. The applicant shall maintain free of litter of all areas of the premises over which applicant has control.
- 18. Any graffiti painted or marked upon the premises shall be removed or painted over within 48 hours of being applied.

- All operational conditions and restrictions shall be complied with, regardless of operating hours, 24 hours a day, seven days a week.
- 20. Hours of operation shall be limited to 11:00 a.m. to 2:00 a.m., seven days a week.
- 21. Music shall not be audible beyond the area under the control of the licensee.
- 22. Second floor windows shall be double-paned and shall remain closed after 8 p.m.
- 23. The use of the portion of the alley north of 1764 Anaheim Avenue to access the off-site parking lot shall be prohibited after 10 p.m.
- 24. The applicant shall contact the Planning Division to arrange a Planning inspection of the site prior to occupancy. This inspection is to confirm that the conditions of approval and code requirements have been satisfied.
- 25. Permanent masonry walls shall be constructed along the interior property lines of the property at 1764 Anaheim Avenue. The wall(s) shall have a finished quality on both sides. Where walls on adjacent properties already exist, the applicant shall work with the adjacent property owners to prevent side-by-side walls with gaps in between them.
- 26. The conditions of approval and ordinance or code provisions of PA-04-33 shall be blueprinted on the face of the site plan as part of the plan check submittal package.
- 27. Maintain the public right-of-way in a "wet-down" condition to prevent excessive dust and remove any spillage from the public right-of-way by sweeping or sprinkling.

Eng.

PLANN G DIVISION - CITY OF COS MESA <u>DESCRIPTION/JUSTIFICATION</u>

	n #: PA-vy-33 Environmental Determination: ErEmpt	
Addres	1764 ANAHEIM & 1777 HEWPORT BL.	
1.	ully describe your request: THE PROPOSED PROPERTY IS TO BE DEVELOPED AS A PARKING OF FOR THE SENETIT & ADDITIONAL PARKING ROCATED FOR RESTOURANT USE @ 1777 NEWFORT B.	3 WD.
2.	ustification	
	For a Conditional Use Permit or Minor Conditional Use Permit: Describe how the proposed use is substated compatible with uses permitted in the same general area and how the proposed use would not be mate detrimental to other properties in the same area. DUE TO DIRECT ACCESS TO THE ALLEY SERVINGS TO THE ALL	terially
3.	nis project is: (check where appropriate) _ In a flood zone Subject to future street widening. _ In a Specific Plan Area.	
4.	nave reviewed the HAZARDOUS WASTE AND SUBSTANCES SITES LIST published by	y the have
	\sum is not included in the publication indicated above.	
	Is included in the publication indicated above.	
0	8/3/04	
Signa	Date /	

March '96

COSTA MESA POLICE DEPARTMENT

MEMORANDUM

TO:

Lt. Birney

Planning Department

FROM:

Sue Hupp

Crime Prevention Specialist

SUBJECT:

PA-04-33, 1777 Newport/1764 Anaheim

DATE:

October 5, 2004

Parking

At this time we are denying the request for an entertainment/dancing permit and off-site valet parking. In the past, at other establishments, we have seen an increase in calls for service regarding noise, loitering, music, fights, etc. This comes from the residences that are within 200' of a restaurant/bar that stays open after 10:00 p.m.

Due to the likelihood that patrons will not use the off-site valet parking, they will most likely use the parking lot on the east side of the building (facing Newport Blvd.) and utilize parking already designated for other businesses. This will cause a parking problem. We can see two reasons why they may not use the off-site valet parking. One would be of choice, they don't want to valet park their car; and two, confusion on where the valet parking lot is.

Lighting

The parking lot shall provide a maintained minimum of one foot-candle of light on the parking surface during the hours of darkness. The light source shall be controlled by a photocell device or time clock with an astronomic feature and be weather and vandal resistant.

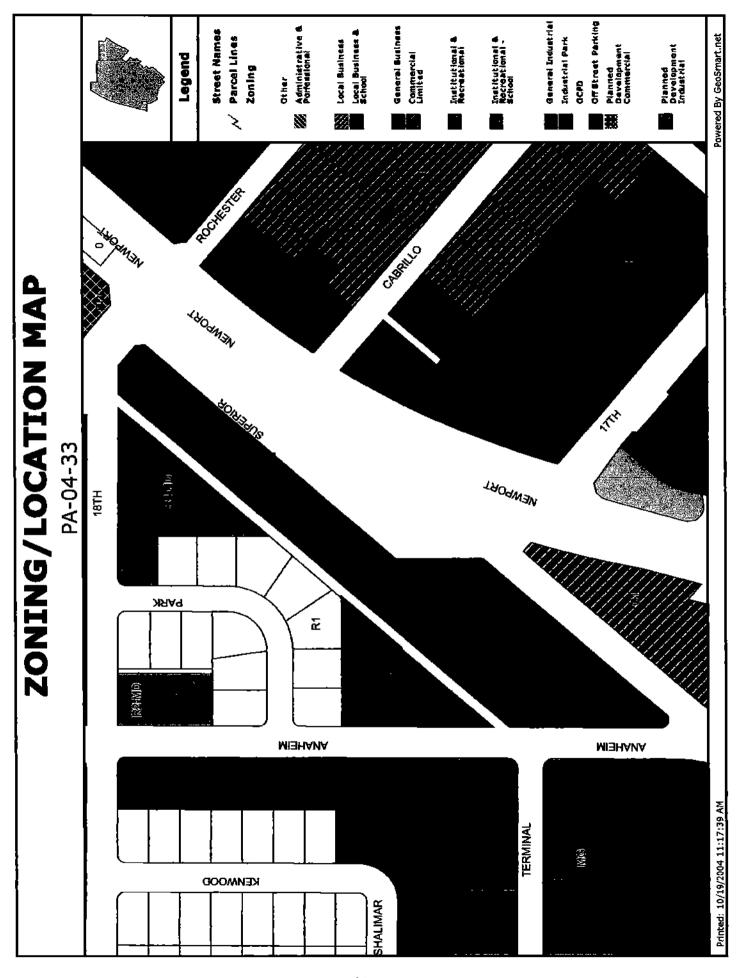
Special care should be given when planting the trees that they are not planted in the same location as the light standards. When trees mature they will block the light and be ineffective.

Landscape

All landscape shall be low profile (no higher than two feet). Bushes/shrubs shall not be clumped together, be maintained at a height no higher than three feet and trees trimmed up to seven feet.

SUE HUPP

Crime Prevention Specialist



1764 ANAHEIM AVE. AND SURROUNDING PROPERTIES Street Names Parcel Lines Legend GOLDEN TRUFFLE 2-STORY RESIDENCES PA-04-33 1764 ANAHEIM

1777 NEWPORT BL. AND SURROUNDING PROPERTIES Street Names Parcel Lines owered By GeoSmart,net Legand Parcels PA-04-33 2-STORY RESIDENCES



1764 ANAHEIM AVE

